

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5767 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GANDHINAGAR AGRICULTURAL PRODUCE MARKET COMMITTEE

Versus

STATE OF GUJARAT

Appearance:

MR GR UDHWANI for Petitioner

MR HL JANI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/12/96

ORAL JUDGMENT

Heard learned counsel for the parties.

2. The petitioner is an Agricultural Produce Market Committee for the market area comprising of Gandhinagar District. It is a statutory committee constituted under the provisions of the Gujarat Agricultural Produce Market Act. The petitioner filed this writ petition before this Court and prayer has been made that the Government be

directed to allocate 70 to 80 acre of land to the petitioner Committee at the rate of Rs.17/- per sq.mts. in Gandhinagar township.

3. I fail to see any justification of the petitioner to approach this Court for such relief against the State Government. Instead of approaching to this Court, and instead of compelling the petitioner to approach this Court by the respondent, the matter should have been decided and settled in between the State and the Committee. It is a lis in between the statutory Committee constituted under the Act of the legislature and the State Government. Such dispute should be resolved out at the Government level. The dispute in between such class of persons should come before the Court only when a high level Committee of the State Government decides that it failed to resolve out the said dispute. On certification of such Committee, the matter could have been and should have been filed before this Court by the Corporation or the Committee like the petitioner. In many cases earlier, I have given directions to the Government in the line of directions given by the Hon'ble Supreme Court in the case of ONGC v. Collector, Central Excise, reported in JT 1991(4) SC 158, that the State Government should constitute a high level Committee for resolving out the dispute in between the Department against the Department, Department against the Public Sector Undertakings, or the Public Sector Undertakings against the State etc., which includes statutory authorities or committees or corporations constituted under the legislative Act. So far this Court is not made known what ultimately has been done by the State in the matters referred above. However, this litigation is in between the Committee constituted under the Legislative Act and the State Government. The Committee needs land for its market area or 'Mandali' and the land is to be granted by the State Government. Whether the petitioner's demand has to be accepted or not and in case it is accepted, how much land has to be allotted, are the matters to be resolved out in between the Committee and the State Government by some responsible officers of the Government in the concerned department, and the decision so reached has to be accepted by the parties. Only when one of the parties feels that the decision may not be correct or that refusal of the demand is not justified and it may result in loss to the public or a class of persons for whose benefits the Committee has been constituted, then only on certification of the Committee or in the appropriate cases, without certification of the Committee, the aggrieved party may approach to this Court and not

otherwise. Instead of deciding the matter on merits, what I feel that the claim of the petitioner regarding the allotment of the land for its use should be decided by a high level Committee and in case the decision is given by the said high level Committee and the same is not acceptable to the petitioner for the reasons to be stated, the Committee will consider and decide whether the petitioner should be permitted to go to the Court or not or be permitted to go to what extent. The earlier direction given by this Court for constituting the Committee seems to have not been complied with and again giving such direction will result in delay of adjudication of the claim of the petitioner. In view of this fact, it is hereby directed to the Chief Secretary, State of Gujarat, to a Committee to be headed by him and constitute other members, namely Secretary of Road and Buildings Department, Secretary to the Department which deals with Agricultural Produce Market Committees, Finance Secretary of the State, or its nominee and the Law Secretary. The petitioner shall submit a representation in the form of appeal addressed to the Chief Secretary within a period of one month from the date of receipt of certified copy of this order and shall enclose with the said appeal, a certified copy of this order. On receipt of this application-cum-appeal, the Chief Secretary shall constitute the aforesaid Committee within a reasonable period and will see that the matter is decided within six months from the date of receipt of the application-cum-appeal from the petitioner. An authorized member of the petitioner-Committee shall also be given an opportunity of hearing. The decision taken by the constituted Committee shall be communicated to the petitioner. However, in case, the demand of the petitioner is not accepted, or in case it is accepted in part, then the Committee shall further decide whether the petitioner should be permitted to approach to this Court for redressal of grievance or remaining grievance or not. This exercise will only be undertaken in case the petitioner, after decision of the Committee makes a request in this respect and not otherwise.

4. In the result, this Special Civil Application is disposed of with aforesaid directions. Rule stands disposed of accordingly. No order as to costs.

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